

**UNITED STATES DISTRICT COURT
IN THE EASTERN DISTRICT OF MICHIGAN**

DHAVAL VAISHNAV,

Plaintiff,

vs.

HOME DEPOT USA, INC.,
THE HOME DEPOT, INC.,
PINGORA LOAN SERVICING, LLC,
AND CITIGROUP, INC.,

Defendants.

Case No.
Hon.

Removed from
Wayne County Circuit Court
Case No. 23-001399-CB

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NOTICE OF REMOVAL FROM STATE COURT

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. §§ 1332, 1441(a) and (b) and 1446, the above-captioned action currently pending in the Wayne County Circuit Court in the State of Michigan is hereby removed by Defendants Home Depot USA, Inc., The Home Depot Inc., correctly named "Home Depot USA, Inc." ("Home Depot"), and Citibank, N.A. ("Citibank"), improperly sued as

“Citigroup, Inc.,” to the United States District Court for the Eastern District of Michigan, by the filing of this Notice of Removal with the Clerk of the United States District Court for the Eastern District of Michigan. In support of removal, Defendants state as follows:

1. On or about January 31, 2023, Plaintiff Dhaval Vaishnav (“Plaintiff”) commenced an action by filing his Complaint in the Wayne County Circuit Court, State of Michigan, entitled “*Dhaval Vaishnav v. Home Depot USA, Inc., et. al.*,” Case No. 23-001399-CB (the “State Court Action”).

2. Pursuant to 28 U.S.C. § 1446(a), a complete copy of all process and pleadings received by Home Depot, Pingora Loan Servicing, LLC (“Pingora”) and Citibank in the State Court Action are attached hereto as **Exhibit A**.

3. Home Depot received a copy of the Summons and Complaint on or about February 6, 2023. Citibank received a copy of the Summons and Complaint on or about February 7, 2023. Pingora received a copy of the Summons and Complaint on or about February 6, 2023.

4. Pursuant to 28 U.S.C. § 1446(b)(1), this Notice of Removal is timely because it was filed within 30 days after receipt of the Summons and Complaint.

5. Co-Defendant Pingora consents to this removal. Therefore, each Defendant has consented to removal in accordance with 28 U.S.C. § 1446(b)(2)(A).

6. This Court is in the district and division “embracing the place where [the State Court] action is pending.” 28 U.S.C. § 1441(a). The Wayne County Circuit Court is located in the Eastern District of Michigan.

DIVERSITY JURISDICTION EXISTS

7. This case is a civil action of which this Court has diversity jurisdiction pursuant to 28 U.S.C. § 1332(a) because this action is between citizens of different states and the amount in controversy exceeds \$75,000.00, exclusive of interest, costs and attorney fees, as demonstrated more fully below.

The Parties are Diverse

8. **Plaintiff’s Citizenship:** For purposes of diversity jurisdiction, a person is a citizen of the state in which he or she is domiciled. *Newman-Green, Inc. v. Alfonzo-Larrain*, 490 U.S. 826, 828 (1989). “[D]omicile is established by physical presence in a place in connection with a certain state of mind concerning one’s intent to remain there.” *Miss. Band of Choctaw Indians v. Holyfield*, 490 U.S. 30, 48 (1989). Here, Plaintiff alleges that he resides in the State of Michigan and alleges no intent to immediately leave. (See **Ex. A**, Compl., ¶6). As such, Plaintiff is a citizen of the State of Michigan.

9. **Defendant Home Depot’s Citizenship:** Home Depot is, and was at the time of the filing of this action, a corporation incorporated under the laws of the State of Delaware with its principal place of business in Atlanta, Georgia. Consequently, Home Depot is a citizen of the States of Delaware and Georgia for diversity jurisdiction purposes. See 28 U.S.C. § 1332(c)(1).

10. **Defendant Citibank's Citizenship:** Citibank is a national bank. For diversity purposes, a national bank is located “in the State designated in its articles of association as its main office.” *Wachovia Bank, N.A. v. Schmidt*, 546 U.S. 303, 318 (U.S. 2006). The main office of Citibank as designated in its articles of association, is located in Sioux Falls, South Dakota. For purposes of diversity jurisdiction, Citibank is a citizen of the State of South Dakota for diversity jurisdiction purposes.

11. **Defendant Pingora's Citizenship:** Pingora is a citizen of Maryland, New York, Singapore, and Florida. Pingora is a limited liability company, so it has the citizenship of its members. *Delay v. Rosenthal Collins Grp., LLC*, 585 F.3d 1003, 1005 (6th Cir. 2009). Pingora has three members: (a) Onslow Bay Financial, LLC; (b) Pingora MSR JV I-B, LP; and (c) Pingora Holdings, LP.

a. Onslow Bay Financial, LLC's sole member is Hatteras Financial Corp., which is a Maryland corporation with its principal place of business located in New York. Thus, Pingora is a citizen of Maryland and New York. *See* 28 U.S.C. § 1332(c)(1).

b. Pingora MSR JV I-B, LP is a Delaware limited partnership, and its partners are Radiance Star Pte. Ltd. and Annaly NVTs JVIB Investment, LLC. A limited partnership has the citizenship of its general and limited partners. *See V & M Star, LP v. Centimark Corp.*, 596 F.3d 354, 355 (6th Cir.

2010). Radiance Star Pte. Ltd. is a Singapore corporation with its principal place of business located in Singapore. Annaly NVTJ JVIB Investment, LLC is a Delaware, LLC and its sole member is Annaly Capital Management, Inc., a Maryland corporation with its principal place of business located in New York. Thus, Pingora is a citizen of Maryland, New York, and Singapore.

- c. Pingora Holdings, LP's partners are PHLP GP, LLC and Bayview Asset Management, LLC, both of which are Delaware limited liability companies. PHLP GP, LLC's sole member is Bayview Asset Management, LLC. Bayview Asset Management, LLC's sole member is Bayview Asset Management Holdings, LLC, a Delaware limited liability company. Bayview Asset Management Holdings, LLC has two members: Mayim Capital, LLC, a Florida limited liability company and Mayim Investment Holdings, Inc., a Florida corporation. The sole member of Mayim Capital, LLC is an individual who is a citizen of Florida. Mayim Investment Holdings, Inc. is a Florida corporation with its principal place of business located in Florida. Thus, Pingora is a citizen of Florida.

12. Accordingly, complete diversity of citizenship exists between Plaintiff and Defendants because Plaintiff is a citizen of Michigan, Home Depot is a citizen of Delaware and Georgia, Citibank is a citizen of South Dakota, and Pingora is a citizen of Maryland, New York, Singapore, and Florida.

The Amount in Controversy Exceeds \$75,000.00

13. Pursuant to 28 U.S.C. § 1332(a), the amount in controversy in this matter exceeds the sum or value of \$75,000.00, exclusive of interest, costs and attorney fees. 28 U.S.C. § 1332(a).

14. Plaintiffs' Complaint seeks an amount in excess of \$100,000. in damages. (*See Ex. A, Compl.*).

15. While Home Depot, Pingora, and Citibank deny the allegations in Plaintiff's Complaint, and deny any liability to Plaintiff whatsoever, if those allegations are proven to be true, the amount in controversy exceeds the sum or value of \$75,000.00, exclusive of interest, costs and attorneys' fees. Notwithstanding that the jurisdictional requirements have been met, nothing in this Notice of Removal should be construed as an admission that Plaintiff is entitled to any judgment in his favor.

16. A Notice of Filing of Removal and a copy of this Notice of Removal from State Court will be filed with the Wayne County Circuit Court as required by 28 U.S.C. § 1446(d). *See Exhibit B.* Copies of the same will be served upon all counsel of record upon the filing of this Notice.

WHEREFORE, Defendants Home Depot and Citibank hereby remove the State Court Action from the Wayne County Circuit Court, State of Michigan, to this Court, and respectfully request that the Court take jurisdiction of this civil action to the exclusion of any further proceedings in the State Court.

Date: March 6, 2023

Respectfully submitted,

DICKINSON WRIGHT, PLLC

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CERTIFICATE OF SERVICE

I hereby certify that on March 6, 2023 I filed the foregoing paper with the Clerk of the Court using the ECF system. In addition, I served the foregoing paper via U.S. Mail to:

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